

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS – FORT WORTH DIVISION**

OFFICE OF THE ATTORNEY
GENERAL OF TEXAS,

Plaintiff,

v.

U.S. CUSTOMS & BORDER
PROTECTION

Defendant.

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Case No. 4:24-cv-785-P

PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT

Plaintiff, The Office of the Attorney General of Texas, files this motion for default judgment asking this Court to render a default judgment against the defendant, U.S. Customs & Border Protection.

A. INTRODUCTION

1. Plaintiff is the Office of the Attorney General of Texas; Defendant is United States Customs & Border Protection.
2. On August 15, 2024, Plaintiff filed its complaint against Defendant for violations of the Freedom of Information Act. *See* Complaint for Declaratory and Injunctive Relief (ECF 1).
3. On October 1, 2024, Defendant acknowledged receipt of the complaint. *See* Ex. A (e-mail accepting service).
4. Defendant’s answer to the complaint was due on October 31, 2024. *See* 5 U.S.C. § 552(a)(4)(C) (“Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days

after service . . . unless the court otherwise directs for good cause shown.”).

5. Between October 16, 2024, and October 24, 2024, the parties discussed the outstanding FOIA requests, but no agreements regarding the scope of the requests nor the time for production were reached.
6. Defendant did not file a responsive pleading or otherwise defend the suit.
7. Plaintiff now asks the Court to render default judgment against Defendant.

B. ARGUMENT

8. A court may render default judgment against a party who has not filed a responsive pleading or otherwise defended the suit. *See* Fed. R. Civ. P. 5(a), (b)(2).
9. This Court should render a default judgment against Defendant because Defendant did not file a responsive pleading within thirty days after October 1, 2024, and Defendant has not otherwise made an appearance or defended against the suit.
10. Defendant is a federal agency of the United States, is not a minor or an incompetent person, nor an individual in military service.
11. Plaintiff is entitled to relief against Defendant because Defendant is in continuing violation of FOIA’s production deadlines. 5 U.S.C. § 552(a)(3)(A).
12. Despite having submitted its FOIA requests nearly five months ago, Defendant has not produced documents in response to the Plaintiff’s FOIA request within any statutorily mandated time frame, nor within any statutorily permitted extension.
13. Accordingly, Plaintiff seeks an Order compelling Defendant to provide all responsive information to the FOIA requests at issue in this suit within twenty-one days from the date an Order is signed. A proposed order will be sent to the Court’s e-mail.

C. CONCLUSION

14. Defendant is in violation of FOIA. The Office of the Attorney General of Texas has been harmed by Defendant's on-going withholding of records pertinent to an on-going investigation. To remedy Defendant's violation, the Court should grant this Motion and order Defendant produce responsive records to the FOIA requests at issue in this suit.
15. Plaintiff requests the Court order Defendant to produce all records responsive to Plaintiff's four FOIA requests, previously consolidated into the FOIA tracking number CBP-FO-2024-121081, no later than twenty-one days of the date of the Court's order.

Respectfully submitted,

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Attorney General of Texas

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/s/ Clay Watkins

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*Counsel for the Office of the Attorney General of
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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 4, 2024, and that all counsel of record were served by CM/ECF.

/s/ Clay Watkins

CLAYTON R. WATKINS

Texas Bar No. 24103982

Assistant Attorney General